IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

LA.App.No. 498 of 2003(D)

LAR.58/2000 of SUB COURT, KASARAGOD
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APPELLANT/RESPONDENT:

STATE OF KERALA

BY GOVERNMENT PLEADER SRI. K.V. MANOJKUMAR

RESPONDENTS/CLAIMANTS:
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1. C.H.MOHAMMED KUNHI
S/O. CHEMBARIKA UDMA PADINHAR, UDMA VILLAGE AND POST.

2. C.H.ABDUL SALAM S/O. CHEMBARIKA ABDULLA,
UDMA PADINHAR, P.O.UDMA.

3. THE MANAGING DIRECTOR, B.R.D.C., UDMA.

BY ADV. SRI.V.N.RAMESAN NAMBISAN for R3
SRI.SURESH KUMAR KODOTH for R1

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

LA.App.No. 498 of 2003(D)

Order on I.A. No. 424/2003 in LA.App.No. 498/2003

Dismissed.

Sd/- Sd/-

KURIAN JOSEPH HARUN-UL-RASHID

20.09.2007 JUDGE JUDGE

// True Copy //

P.A. to Judge.

smp

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 498 OF 2003

Dated this the 20th day of September, 2007.

J U D G M E N T

Harun-Ul-Rashid, J.

This is an appeal filed by the State against the judgment and decree in L.A.R. No. 58/2000 dated 31.08.2002 on the file of the Sub Court, Kasaragod.

2. An extent of 0.1110 hectare of dry land in R.S. No. 74/3 and another extent of 0.0040 hectare of garden land in R.S. No. 74/5 of Udma Village, Kasaragod were acquired for Bakel Tourism Project. The last date of publication of Section 4(1) notification is 01.12.1996. Land Acquisition Officer awarded Rs. 2,70,416/- per hectre as land value as against the claim of Rs. 20,000/- per cent.

3. The claimants contended that an amount of Rs. 19,500/- per cent was granted as negotiated rate for the adjacent property and therefore limited their claim to Rs. 19,500/- per cent inclusive of all the benefits under the Land Acquisition Act.

4. In support of the claim for enhanced compensation, on the side of the claimants the reference court examined AW1 and Exhibit A1. Exhibit R1 was marked on the side of the respondent. The reference court found that under the very same award, an amount of

Rs. 19,500/- was granted as negotiated rate to other claimants including the claimant whose property is situated adjacent to the acquired land. In the circumstances, reference court found that the claimants in this case are also entitled for Rs. 19,500/- each per cent and further held that this amount is inclusive of all the benefits which the claimants would otherwise be entitled had the compensation been not on negotiated rate.

We have examined the records and gone through the evidence of AW1 and the Commissioner's report. We are satisfied that the acquired property and the negotiated properties are lying side by side, adjacent to each other. Therefore, we are of the view that the fixation of land value at the rate of Rs. 19,500/- per cent inclusive of all benefits under the Land Acquisition Act is fair and reasonable. We find no merit in the appeal filed by the State and the appeal stands dismissed.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 498 OF 2003

J U D G M E N T

20.09.2007